

evidence, under the general issue in mitigation of damages, the circumstances and intentions under which such publication was made, and any public apology, correction or retraction of the libel complained of made and published by him.

"Sec. 5. The fact that there is now no law in this State defining libel and privileged publications creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted."

Pending further consideration of the foregoing,

Senator Miller moved that the Senate recess until 2:30 o'clock p. m., and

Senator Turney moved that the Senate adjourn until 10 o'clock a. m. tomorrow.

Action being on the longest time first, the Senate accordingly, at 12:35 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

NINETEENTH DAY.

Senate Chamber,
Austin, Tex., Wednesday, Feb. 6, 1901.

Senate met pursuant to adjournment.
Lieutenant-Governor Browning in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Present—27.

Beaty.	Patterson.
Davidson of	Paulus.
Galveston.	Potter.
Dibrell.	Savage.
Grinnan.	Sebastian.
Hanger.	Stafford.
Harris of Bexar.	Staples.
Harris of Hunt.	Swann.
James.	Turner.
Johnson.	Turney.
Lipscomb.	Wayland.
McGee.	Wheeler.
Miller.	Wilson.
Neal.	Yett.

Absent—4.

Davidson of	Lloyd.
DeWitt.	Odell.
Goss.	

Prayer by the Chaplain, Rev. I. S. Davenport.

Pending the reading of the Journal of yesterday,

On motion of Senator Wayland, the same was dispensed with.

EXCUSED.

On motion of Senator Savage, Senator Lloyd was excused for non-attendance yesterday and from attendance today upon the Senate, on account of important business.

On motion of Senator Staples, Senator Goss was excused from attendance upon the Senate until Tuesday morning, February 12th, on account of important business.

PETITIONS AND MEMORIALS.

Senator Yett presented a petition from citizens of Bertram, Texas, asking that the local option law be amended so that shipments of liquors by express into local option districts be legally regarded as a bona fide sale of such.

Read, and referred to Committee on State Affairs.

COMMITTEE REPORTS.

The following committee reports were made to the Senate:

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 66, being a bill to be entitled "An Act to prescribe a punishment for sheriffs who shall appoint more deputies than are provided for by law,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

House bill No. 11, being a bill to be entitled "An Act to amend Articles 379 and 381, Chapter 3, Title XI, of the Penal Code of the State of Texas,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass* with the following amendment:

"Amend by inserting between the words 'cards' and 'he,' in Article 379, the following: 'Except in a private residence.'"

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 101, being a bill to be entitled "An Act to prohibit the keeping or exhibiting for the purpose of profit or gaming any gaming table or bank, pigeon hole table or jenny lind table, or nine or ten pin alley or alley of any kind whatever, regardless of the number of pins, balls or rings, used for profit or gaming,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass with the following amendment:

"Amend by striking out the words 'of profit or.'"

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 58, being a bill to be entitled "An Act to prohibit the traffic in examination questions used by the county school boards of examiners or by the summer normal boards of examiners in the examination of teachers, and providing a penalty for the violation thereof,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 128, being a bill to be entitled "An Act to extend relief to Fort Bend county, and to authorize said county to have certain bonds heretofore issued by it canceled and annulled, and providing service by publication to the holders thereof, where their name or residence is unknown,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it be recommitted and referred to Judiciary Committee No. 1.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 24, being a bill to be entitled "An Act to amend Article 402, of Chapter 6, Title XI, of the Penal Code of the State of Texas, relating to the penalty for selling intoxicating liquors in prohibition districts,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do not* pass.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 33, being a bill to be entitled "An Act to amend Article 155, Title VI, Chapter 1, of the Penal Code of the State of Texas, relating to elections,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 114, being a bill to be entitled "An Act punishing persons who shall forge the consent of parents or guardians for the purpose of procuring a license for marriage,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do not* pass.

TURNEY, Chairman.

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 2, to whom was referred

Senate bill No. 65, being a bill to be entitled "An Act to amend Chapter 62 of the Acts of the Regular Session of the Twenty-fifth Legislature, being 'An Act to amend Article 838, Chapter 6, Title XVII, of the Penal Code of the State of Texas,' defining the crime of burglary,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

TURNEY, Chairman.

Committee Room,

Austin, Texas, February 5, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 69, being a bill to be entitled "An Act to amend an act passed by the Twenty-fifth Legislature, entitled 'An Act to amend Article 976, Chapter 8, Title XXVII, of the Revised Civil Statutes of the State of Texas, relating to the payment of cost and returning mandates in the Supreme Court,' by adding thereto Article 976a, regulating the time in which mandates may be taken out of the Supreme Court,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass with the following amendment:

"Amend Article 976a by adding to said article the following: 'The provisions of this act shall only apply to cases which are by the Supreme Court reversed and remanded, and if any cause is reversed and remanded by said Supreme Court, and the mandate is not taken out within twelve months as heretofore provided then upon the filing in the court below of a certificate of the clerk of the Supreme Court that no mandate has been taken out the case shall be dismissed from the docket of said lower court.'"

STAFFORD, Chairman.

Committee Room,

Austin, Texas, February 5, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 130, being a bill to be entitled "An Act to recognize the right of and permit married women, either separately or in connection with any other person, to act as executrix, or independent executrix, or trustee, or donee of any lawful powers under any valid last will and testament, or as administratrix, and to act as such without the consent, joinder or assistance of their husbands, and to make valid and admit to record upon her acknowledgment in form as though she were a single woman, such instruments so executed by her in such fiduciary char-

acters, as the law authorizes or requires to be recorded,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

STAFFORD, Chairman.

Committee Room,

Austin, Texas, February 5, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 125, being a bill to be entitled "An Act to provide for and regulate the granting of license to practice as attorneys and counselors at law in all the courts of the State of Texas, and to repeal all laws and parts of laws in conflict therewith,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that the following committee substitute *do* pass in lieu thereof:

Substitute Senate bill No. 125:

A BILL

TO BE ENTITLED

An Act to provide for and regulate the granting of license to practice as attorney and counselor at law in all the courts of the State of Texas, and to repeal all laws and parts of laws in conflict therewith.

Be it enacted by the Legislature of the State of Texas:

Section 1. That each of the Courts of Civil Appeals shall, as soon as practicable after this act goes into effect and every two years thereafter, appoint a board of legal examiners for their respective districts; which said board shall consist of three members possessing the same qualifications required for eligibility to the office of district judge, and who shall reside in the district for which they are appointed during their term of office. Said members shall each, before entering upon their duties, take and subscribe the following oath: "I do solemnly swear that I will faithfully and impartially discharge the duties of legal examiner, as required by law and the rules and regulations of the Supreme Court of the State of Texas, to the best of my skill and ability, so help me God." And said legal examiner shall hold their office for the term of two years and until their successors are appointed and qualified, and the majority of said members shall constitute a quorum.

Sec. 2. It shall be the duty of said

board of legal examiners to examine, in writing, applicants for licenses in practice of law in the manner hereinafter required. They shall hold not less than four sessions in each year, which sessions shall be held at the place where their respective courts are located, and may hold other sessions in other parts of their respective districts if they should see proper to do so.

Sec. 3. It shall be the duty of the Supreme Court to prescribe a course of study to be pursued and the subjects in which applicants shall be examined, and such general rules governing such examinations as said court may find necessary, and the same shall be uniform throughout the State.

Sec. 4. Any person desiring to obtain any license to practice as attorney and counselor at law in the courts of this State shall make application to the board of legal examiners, accompanied with a certificate from the county commissioners court of the county of his residence, that he has been a resident of the State at least six months, that he is twenty-one years of age, and that he has a good reputation for moral character and honorable deportment. Such applicant shall also furnish such other evidence of moral character and honorable deportment as said board of legal examiners may require, and shall appear at some meeting of said board within six months next thereafter and be examined as prescribed by the rules of the Supreme Court and this act.

Sec. 5. All applicants shall be examined in writing on all of the subjects prescribed by the Supreme Court and their answers shall be graded, and no applicant shall be granted a license unless he makes a grade of not less than fifty in all branches and a general average of not less than sixty-five.

Sec. 6. All applicants who make the required grade shall be granted by said board a permanent license to practice as attorney and counselor at law in all the courts of this State, the same to be signed by all or a majority of said board and sealed with the seal of their respective courts.

Sec. 7. Any person holding a diploma from the Law Department of the University of Texas shall be authorized to practice as attorney and counselor at law in all the courts of this State, without further license.

Sec. 8. Any person who immigrates to this State from any other State of the United States, with a view of permanently residing herein, and who has been granted a license to practice in the courts of record in said State, may file

his said license with the board of legal examiners in lieu of his certificate from the commissioners court and be examined in the same manner as resident applicants; provided, that upon a sufficient showing that said emigrant has actively engaged in the practice of law in the courts of record under said license for six years or more next before the filing of said license then a license to practice in all of the courts of this State may be granted to such person without examination; provided, the provisions of this section shall not apply to emigrants from States whose laws do not admit emigrant attorneys from this State to the practice of law upon equally as favorable terms.

Sec. 9. Said board of legal examiners shall keep a record of all applicants and the grades made by them and abstract of all licenses issued, which said record shall be kept in the office of the clerk of their respective Courts of Civil Appeals and shall be a part of the record of said court.

Sec. 10. The board of legal examiners shall be entitled to a fee of \$10.00 for each applicant examined by them or to whom a license is granted, said fee to be paid in advance by said applicant.

Sec. 11. All attorneys desiring their names entered on the rolls of the Supreme Court shall forward their license or diploma to the Clerk of the Supreme Court, who shall enter the name of said attorney on the roll of said court and return said license and diploma without charge.

Sec. 12. All persons granted license to practice at attorney and counselor at law under the provisions of this act shall be subject to all the provisions of Title XI of the Revised Civil Statutes of the State of Texas, not in conflict with the provisions of this act.

Sec. 13. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

STAFFORD, Chairman.

Committee Room,

Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Agricultural Affairs, to who was referred

Senate bill No. 79, being a bill to be entitled "An Act to prevent the spread of the contagious diseases known as yellows, black knot, peach rosette, and pear blight among peach, plum, cherry, prune, almond, apricot, nectarine and pear trees, or the fruit thereof; and providing measures for the eradication of the same; and applying the provisions of

this act to 'San Jose scale,' when found on any vine, plant, shrub or fruit tree,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do* pass.

SWANN, Chairman.

Committee Room,

Austin, Texas, February 5, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 6, being a bill to be entitled "An Act to amend Article 966, of Chapter 2, of Title XVIII, of the Penal Code of the State of Texas, relating to threats and to the sending of unlawful communications,"

And find the same correctly engrossed.

BEATY, Chairman.

Committee Room,

Austin, Texas, February 5, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 91, being a bill to be entitled "An Act to amend Article 1316, Chapter 12, Title XXIX, of the Revised Civil Statutes of Texas, relating to charges and instruction to juries,"

And find the same correctly engrossed.

BEATY, Chairman.

BILLS AND RESOLUTIONS.

By Senator Yett:

Senate bill No. 161, A bill to be entitled "An Act to amend Article 4339, of Title XCII, of the Revised Statutes, relating to quarantine, and to the county physician, his election, duties, salary, etc., and for his appointment by the Governor in case of failure of election by the commissioners court; also to amend Article 4340, of Title XCII, of the Revised Statutes, relating to declaring quarantines in counties, cities and towns, and to the maintenance of the same; and adding Article 4340a, providing for the declaration of quarantine in and for the counties where the commissioners court fail or refuse to act, and for the payment of expenses of county quarantines; and adding Article 4342b, providing for the arrest and detention by the county physician of persons infected or violating quarantine laws in their homes or elsewhere; and adding Article 4342c, providing for fees for disinfecting and boarding vessels of quarantine stations;

and adding Article 4343d, requiring quarantine officers to give bond."

Read first time, and referred to Committee on Public Health.

By Senator Yett:

Senate bill No. 162, A bill to be entitled "An Act to amend Article 472, Chapter 6, Title XII, and repeal all laws and parts of laws in conflict herewith."

Read first time, and referred to Committee on Public Health.

By Senator Dibrell:

Senate bill No. 163, A bill to be entitled "An Act to validate acknowledgments to all instruments constituting links in the chain of title, or affecting the title to any lands in the State of Texas; to quiet title to the same, and to repeal all laws and parts of laws in conflict with the provisions of this act."

Read first time, and referred to Judiciary Committee No. 1.

By Senators Grinnan and Davidson of DeWitt:

Senate bill No. 164, A bill to be entitled "An Act relating to fines, forfeitures and penalties due the State of Texas; to provide for securing the payment thereof; to provide for the enforcement thereof against corporations that have been or may hereafter be dissolved, and to provide for the survival of actions and causes of actions therefor."

Read first time, and referred to Judiciary Committee No. 1.

By Senators Grinnan and Davidson of DeWitt:

Senate bill No. 165, A bill to be entitled "An Act to provide for the appointment of receivers; authorizing the appointment thereof for the assets and property of any corporation that has or may be dissolved, and for non-resident persons who are liable to the State of Texas for any fines, forfeitures or penalties."

Read first time, and referred to Judiciary Committee No. 1.

By Senator Patterson:

Senate bill No. 166, A bill to be entitled "An Act to authorize and empower the Railroad Commission of the State of Texas to regulate railways crossing each other to provide for inter-locking or other safety appliances or devices of equal security to prevent trains colliding at such crossings, and to provide a penalty for refusal to comply with the provisions of this act, and to repeal all laws and parts of laws in conflict with this act."

Read first time, and referred to Committee on Internal Improvements.

By Senator Wilson:

Senate bill No. 167, A bill to be entitled

"An Act to amend Article 645, of Chapter 2, of the Acts of 1874, relating to charters of corporations."

Read first time, and referred to Judiciary Committee No. 1.

Senator Potter offered the following resolution:

Whereas, There is a large amount of legislation now pending before the Legislature concerning railroad matters that depend upon facts not accessible to the Legislature; and,

Whereas, It is believed that the Honorable Railroad Commission of Texas is in possession of the needed information or can readily obtain the same for the use of the Legislature; therefore, be it resolved by the Senate:

First. That the said Railroad Commission be requested, if within its power, to furnish the Senate with answer to the following questions and give any additional or other information they may desire or think proper.

A. Are there any fictitious or watered stocks and bonds on the railways of Texas? If so, to what amount and what roads, and when were they issued?

B. Are such fictitious stocks or bonds taken into consideration by the Commission in fixing freight rates in this State? If not, why not; and if so, how; to what extent so considered, and why?

C. Are stocks of a railway considered by the Commission as an indebtedness of the road, and why?

D. If such fictitious stocks and bonds exist, why has not the Attorney General been requested to bring suit to cancel them under the provisions of the Constitution and statutes of this State forbidding their issuance? If other legislation is needed, what is it?

Second. That the Honorable Commission inform the Senate how many States in the Union have laws prohibiting free passes and what has been the effect upon the freight and passenger rates?

E. What portion of the free passes issued by the Texas roads are exchange passes issued to officers and employees of roads outside of this State? What portion to their own employees?

F. What portion of said passes are used by the people of Texas, and how does their use effect the freight rates in this State, and to what extent does it do so; how much would the Commission lower such freight rates if free passes were not issued?

Third. That the Secretary of the Senate immediately after the passage of this resolution furnish the Honorable Railroad Commission with a copy thereof.

11—Senate.

The resolution was read second time, and adopted.

(Senator Potter in the chair.)

The Chair declared the morning call concluded.

SENATE BILLS ON SECOND READING—SENATE BILL NO. 133.

On motion of Senator Miller, pending business, Senate bill No. 25 (libel bill), was suspended and the Senate took up, out of its order,

Senate bill No. 133, A bill to be entitled "An Act providing for the location and establishment of additional State agricultural experiment stations under direction and control of the Agricultural and Mechanical College of Texas, defining the object of such stations, describing how they shall be located, and appropriating thirty thousand dollars for the purpose of carrying this act into effect."

The Chair then laid the bill before the Senate, on its second reading.

Bill was read second time, and

Senator Dibrell offered the following amendment:

"Amend the bill by adding after the word 'capable,' in line 23, Section 2, the following: 'Provided the experts employed to conduct such experimental stations shall be capable, practical, scientific and common sense men.'"

Amendment was read, and adopted.

Senator James offered the following amendment:

"Amend by striking out all of line 12 to the word 'agricultural' and insert in lieu thereof the following: 'That every farm in Texas shall be an.'"

Amendment was read, and lost.

(Lieutenant-Governor Browning in the chair.)

Bill was then ordered engrossed by the following vote:

Yeas—18.

Beaty.	Paulus.
Davidson of	Sebastian.
Galveston.	Stafford.
Dibrell.	Staples.
Harris of Bexar.	Swann.
Harris of Hunt.	Turney.
Johnson.	Wayland.
Lipscomb.	Wheeler.
Miller.	Wilson.
Neal.	

Nays—7.

Grinnan.	Potter.
James.	Savage.
McGee.	Yett.
Patterson.	

Absent.

Davidson of Odell.
DeWitt. Turner.

Hanger. Absent—Excused.

Goss. Lloyd.

SPECIAL COMMITTEE ANNOUNCED.

The Chair here announced Senators Hanger and Sebastian to act on the part of the Senate on the joint committee from the Legislature to visit the storm stricken districts of the Texas coast country as provided for under House Concurrent Resolution No. 2.

SENATE BILL ON SECOND READING
—SENATE BILL NO. 86.

On motion of Senator Stafford, the pending business (Senate bill No. 25) was suspended and the Senate took up, out of its order.

Senate bill No. 86, A bill to be entitled "An Act to amend Articles 5127, 5128 and 5166 of the Revised Statutes of the State of Texas, relating to the matter of furnishing blanks, rolls and tax receipts for the assessment, rendition and collection of taxes to the various assessors and tax collectors of the counties in this State."

The Chair then laid the bill before the Senate, on its second reading.

Bill was read second time, and ordered engrossed.

SENATE BILL ON SECOND READING
—SENATE BILL NO. 116.

On motion of Senator Johnson, the pending business (Senate bill No. 25) was suspended and the Senate took up, out of its order.

Senate bill No. 116, A bill to be entitled "An Act to provide for a uniform method of recording maps and plats of town sites, additions and subdivisions, and to legalize those heretofore made."

The Chair then laid the bill before the Senate, on its second reading.

Bill was read second time, and

Senator Johnson offered the following amendment:

"Amend the bill by adding in line 19, page 1, after the word 'State,' the following: 'And that a certified copy of said map or plat shall be admissible as evidence under the rules of evidence.'"

Amendment was read, and adopted.

Senator Johnson offered the following amendment:

"Amend Senate bill No. 116 by adding after the word 'platted,' in line 13, Section 1, the following: 'By a competent

surveyor and the field notes duly certified by him before some officer authorized to administer oaths.'"

Amendment was read, and adopted, and

On motion of Senator Johnson the bill was laid on the table subject to call.

SENATE BILL ON SECOND READING
—SENATE BILL NO. 82.

On motion of Senator Wilson, the pending business (Senate bill No. 25) was suspended and the Senate took up, out of its order.

Senate bill No. 82, A bill to be entitled "An Act to amend Section 2, of Article 3974, of the Revised Civil Statutes of the State of Texas, relating to the issuance of first grade teachers' certificates."

The Chair then laid the bill before the Senate, on its second reading.

Bill was read second time, and

Senator Wheeler offered the following amendment:

"Amend by inserting the word 'county' between the words 'all' and 'institutes,' in line 22 of printed bill, and by striking out the words 'and summer normal schools' in said line."

Amendment was read, and adopted.

Senator Savage moved to table the bill subject to call.

Motion to table was lost, and

On motion of Senator Wilson, further consideration of the bill was postponed until next Tuesday, February 12th, and made a special order after the conclusion of the morning call.

SENATE BILL SIGNED—SENATE
BILL NO. 11.

The Chair gave notice of signing, and did sign, in the presence of the Senate, the following Senate bill after its caption had been read:

Senate bill No. 11, "An Act to provide for the organization of private corporations, traction companies, for the purpose of constructing, acquiring, maintaining and operating electric inter-urban roads between and connecting different cities, towns and villages, and into, through and over public streets of the different cities, towns and villages reached by same, and to furnish light and power to consumers; to provide the manner and method of organizing said corporations; to prescribe the rights, powers, privileges and duties of said corporations; to authorize said corporations to construct, acquire, operate and maintain such electric roads, own, use and occupy lands, easements, buildings and structures; to empower such corporations to condemn lands and other

property for the use and purposes of such corporations, and to provide the method therefor: to issue stock and bonds and to borrow money, and to mortgage its franchise and property."

COMMITTEE REPORT.

By unanimous consent, the following committee report was made to the Senate:

Committee Room,
Austin, Texas, February 6, 1901.

Hon. J. N. Browning, President of the Senate.

SIR: Your Committee on State Asylums, to whom was referred

Substitute House bill No. 102, being a bill to be entitled "An Act to amend Sections 7 and 8 of 'An Act to provide for the location and building of a branch asylum for the care and treatment of the epileptic insane of the State, and to make an appropriation therefor,' passed by the Twenty-sixth Legislature of the State of Texas, and approved February 9, 1899, and to repeal an Act of the First Called Session of the Twenty-sixth Legislature on the same subject, approved February 20, 1900, and all other laws in conflict herewith,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it *do pass*.

YETT, Chairman.

PENDING BUSINESS—SENATE BILL NO. 25 (LIBEL BILL).

The Chair then laid before the Senate pending business, Senate bill No. 25 (Libel Bill), action being on the substitute offered by Senator Savage to the amendment offered by Senator Staples as subsequently amended, and which substituted all of the bill after the enacting clause.

Senator Turner moved the previous question on the bill, and the following pending substitute offered by Senator Savage:

"Section 1. That a libel is a malicious defamation expressed in print or writing or by signs and pictures or drawings, tending to blacken the memory of the dead, with an intention to provoke the living or to injure the reputation of one who is alive, and thereby expose him to public hatred, contempt or ridicule, or financial injury, or to impeach the honesty, integrity or virtue or reputation of any one, or to publish the natural defects of one who is alive and thereby expose such person to public hatred, ridicule or financial injury.

"Sec. 2. In any action for damages brought for the publication of a libel in any newspaper or periodical devoted to the publication of general news, science, literature or any character of reading matter, the plaintiff shall recover only such actual damages as may be shown to have been suffered by him because thereof; provided, the alleged libelous statements published in said newspaper or periodical are the truth, and it can be shown that no malice existed.

"Sec. 3. The publication of the following matters by any newspaper or periodical, as defined in Section 1, shall be deemed privileged:

"First. A fair and true report of any executive, judicial, legislative, constabulary, police or other official proceedings or actions, or anything said or done in the course thereof.

"Second. A fair and true report of public meetings.

"Third. Reasonable and fair comment and criticism upon matters of public concern, and the official acts of public officials, published for general information.

"Sec. 4. On the trial of any such action for libel the defendant may give in evidence, under the general issue in mitigation of damages the circumstances and intentions under which such publication was made, and any public apology, correction or retraction of the libel complained of made and published by him.

"Sec. 5. The fact that there is now no law in this State defining libel and privileged publications creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted."

CALL OF SENATE—SENATE BILL NO. 25 (LIBEL BILL).

The motion for the previous question having been seconded,

Senator McGee moved a call of the Senate, which, being seconded, the following Senators answered to their names:

Present—27.

Beaty.	McGee.
Davidson of	Miller.
Galveston.	Neal.
Dibrell.	Patterson.
Grinnan.	Paulus.
Hanger.	Fotter.
Harris of Bexar.	Savage.
Harris of Hunt.	Sebastian.
James.	Stafford.
Johnson.	Staples.
Lipscomb.	Swann.

Turner.	Wheeler.
Turney.	Wilson.
Wayland.	Yett.

Absent—2.

Davidson of	Odell.
DeWitt.	

Absent—Excused.

Goss.	Lloyd.
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Senator Staples moved that the absentees under the foregoing call of the Senate be excused, and during the progress of the roll call

Senator McGee withdrew his motion for a call of the Senate, whereupon

Senator Turner also withdrew his motion for the previous question, and the Senate doors were reopened.

ACTION ON PENDING AMENDMENT AND SUBSTITUTE TO SEN- ATE BILL NO. 25.

Action then recurring on the substitute offered by Senator Savage to the amendment offered by Senator Staples, as amended (printed above), the same was withdrawn.

The amendment offered by Senator Staples, as amended (see all after enacting clause, page 169 of Journal of February 1), was then adopted.

Senator McGee offered the following amendment:

"Amend the amendment by striking out the word 'malicious' before the word 'defamation' in Section 1."

Amendment was read, and adopted.

Senator Harris of Bexar offered the following amendment:

"Amend Section 4 by adding after the words 'published by him' the words 'and the truth of the statement or statements in such publication shall be a defense to such action.'"

Amendment was read, and adopted.

Senator Dibrell offered the following amendment:

"Amend Senate bill No. 25 by striking out Section 5 of the amended bill and substitute in lieu thereof the following: 'This act regulates the law with regard to libel in civil actions for damages, and is not intended to have any operation upon the subject so far as relate to penal offenses.'"

Amendment was read, and adopted.

Senator Harris of Hunt offered the following amendment:

"Amend by striking out the word 'tending' in Section 1 and substitute the word 'intended.'"

Amendment was read, and adopted.

Senator Harris of Hunt offered the following amendment:

"Amend Section 2 by adding the word 'pecuniary' between the words 'actual' and 'damage.'"

Amendment was read, and adopted.

PREVIOUS QUESTION—SENATE BILL NO. 25.

Senator Miller then moved the previous question on the engrossment of Senate bill No. 25 (libel bill), which, after being duly seconded,

Senator McGee moved a call of the Senate.

The call not being seconded the main question was ordered under the motion of Senator Miller, and

The bill, as amended, was ordered engrossed.

On motion of Senator Harris of Bexar, the constitutional rule requiring bills to be read on three several days was suspended and the bill put on its third reading and final passage by the following vote:

Yeas—25.

Beaty.	Paulus.
Davidson of	Potter.
Galveston.	Savage.
Dibrell.	Sebastian.
Grinnan.	Stafford.
Hanger.	Staples.
Harris of Bexar.	Swann.
Harris of Hunt.	Turner.
James.	Turney.
Lipscomb.	Wayland.
Miller.	Wheeler.
Neal.	Wilson.
Patterson.	Yett.

Nays—1.

McGee.

Absent.

Davidson of	Johnson.
DeWitt.	Odell.

Absent—Excused.

Goss.	Lloyd.
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The bill was read third time, and

Senator McGee offered the following amendment:

"Amend the substitute by striking out the words 'constabulary, police or other,' in Section 3, Subdivision 'First.'"

Amendment was read, and lost, and

The bill was then passed by the following vote:

Yeas—25.

Beaty.	Harris of Hunt.
Davidson of	James.
Galveston.	Lipscomb.
Dibrell.	Miller.
Grinnan.	Neal.
Hanger.	Patterson.
Harris of Bexar.	Paulus.

Potter.	Turner.
Savage.	Turney.
Sebastian.	Wayland.
Stafford.	Wheeler.
Staples.	Wilson.
Swann.	Yett.

Nays—1.

McGee.

Absent.

Davidson of	Johnson.
DeWitt.	Odell.

Absent—Excused.

Goss.

Lloyd.

Senator Harris of Bexar moved to reconsider the vote by which the bill was passed and lay that motion on the table. Motion to table prevailed.

PENDING BUSINESS—SENATE BILL NO. 62.

The Chair then laid before the Senate, on engrossment, pending business,

Senate bill No. 62, A bill to be entitled "An Act fixing the venue in suits upon written contracts."

Action recurring on the motion of Senator Hanger to substitute the minority unfavorable for the majority favorable committee report, and

Senator Miller moved to postpone further consideration of the bill until March 15th, and that it be made a special order at the conclusion of the morning call.

Senator Turner offered a substitute motion to lay the bill on the table subject to call.

Motion to table subject to call prevailed, whereupon the motion of Senator Miller, as substituted by Senator Turner was adopted by the following vote:

Yeas—13.

Dibrell.	Savage.
Grinnap.	Staples.
James.	Swann.
Lipscomb.	Turner.
Neal.	Wheeler.
Paulus.	Yett.
Potter.	

Nays—12.

Beaty.	Miller.
Davidson of	Patterson.
Galveston.	Stafford.
Hanger.	Turney.
Harris of Bexar.	Wayland.
Harris of Hunt.	Wilson.
McGee.	

Absent.

Davidson of	Odell.
DeWitt.	Sebastian.
Johnson.	

Absent—Excused.

Goss. Lloyd.

MOTION TO CALL UP SENATE BILL —SENATE BILL NO. 62.

Senator Patterson moved to call up from the table, Senate bill No. 62, just previously acted upon, and

Senator James moved that the Senate stand adjourned until 10 o'clock a. m. tomorrow, and the Senate did accordingly adjourn at 12:35 o'clock p. m. by the following vote:

Yeas—16.

Grinnan.	Staples.
Harris of Hunt.	Swann.
James.	Turner.
Lipscomb.	Turney.
Neal.	Wayland.
Paulus.	Wheeler.
Savage.	Wilson.
Stafford.	Yett.

Nays—9.

Beaty.	Harris of Bexar.
Davidson of	McGee.
Galveston.	Miller.
Dibrell.	Patterson.
Hanger.	Potter.

Absent.

Davidson of	Odell.
DeWitt.	Sebastian.
Johnson.	

Absent—Excused.

Goss. Lloyd.

TWENTIETH DAY.

Senate Chamber,

Austin, Tex., Thursday, Feb. 7, 1901.

Senate met pursuant to adjournment.

Lieutenant-Governor Browning in the chair.

Roll called. No quorum present, the following Senators answering to their names:

Present—20.

Davidson of	Potter.
DeWitt.	Savage.
Grinnan.	Sebastian.
Harris of Bexar.	Staples.
Harris of Hunt.	Turner.
James.	Turney.
Johnson.	Wayland.
Lipscomb.	Wheeler.
McGee.	Wilson.
Patterson.	Yett.
Paulus.	

Absent—10.

Beaty.	Dibrell.
Davidson of	Hanger.
Galveston.	Lloyd.